



U.S. Department
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**Federal Transit
Administration**

Summary of Comments Received on FTA's January 2013 Proposed New Starts and Small Starts Policy Guidance

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Summary of Comments Received on FTA's Proposed Policy Guidance Published January 9, 2013

The Federal Transit Administration (FTA) is appreciative of the thoughtful comments provided on our proposed policy guidance published in January 2013. Below we summarize the comments received by topic area and how FTA did or did not make changes in the final policy guidance based on those comments. This document provides succinct responses. Readers should familiarize themselves with the final policy guidance to get an understanding of the details.

FTA received written responses on the proposed policy guidance from 50 entities, including cities, transit operators, state agencies, metropolitan planning organizations, non-profit organizations, a private business, and an interested citizen. Included in these letters were more than 329 separate comments. These responses can be found in their entirety under docket number FTA-2010-0009 at www.regulations.gov.

Current Year and Horizon Year Estimates

Comments

Most of the comments received suggested that FTA only use horizon year estimates in the rating. Two comments suggested different weightings of current year versus horizon year. One of these thought horizon year estimates should be weighted higher than 50 percent and one thought horizon year estimates should be weighted lower than 50 percent.

Response

The appendix to the final rule states that FTA will use current year estimates as well as the optional horizon year estimates if a sponsor chooses to do a horizon year forecast. As stated in the response to comments section of the final rule, FTA believes estimates based on current year socio-economic inputs are more reliable, but we recognize the long-term nature of these investments and want to allow consideration of horizon year estimates if the sponsor chooses to do them. FTA has not changed the weighting of current and horizon year estimates in the final policy guidance. We believe weighting them 50/50 represents a fair balance.

Warrants

Comments

Many comments suggested FTA retain the Very Small Starts program until further guidance on revised "warrants" can be established. Some comments suggested that warrants be expanded to cover modes other than Bus Rapid Transit (BRT). Other comments provided specific suggestions on warrants FTA might implement in the future such as: 1) giving an automatic Medium rating for the environmental benefits criterion for projects that include low- or zero-

emission vehicles/technologies; and 2) giving an automatic High rating on the land use criterion if a project is located in an area with a high transit market share (e.g., more than 50 percent market share for home-based work trips).

Response

FTA developed the Very Small Starts program when SAFETEA-LU was enacted as a way to streamline the process for smaller scale projects that could meet certain parameters that would ensure FTA of their merit under the SAFETEA-LU statutory criteria. FTA identified the parameters by which Very Small Starts projects were “warranted” as automatically meeting the criteria outlined in law without additional detailed review and analysis. As directed in MAP-21 and stated in the Final Rule, FTA intends to expand the use of warrants in the future. The text of the Final Rule will allow the use of warrants on all types of projects, including both New and Small Starts projects. Because the statutory evaluation criteria have changed under MAP-21, FTA must re-evaluate whether the “warrants” previously set under SAFETEA-LU for Very Small Starts still meet the new requirements of MAP-21. FTA appreciates the suggestions on other warrants it might consider.

Optional Simplified National Model

Comments

Several comments asked that the simplified national model FTA is developing be made available for public comment.

Response

FTA has developed a simplified national model called Simplified Trips-on-Projects (STOPS) that project sponsors can choose to use to estimate trips on the project and vehicle miles travelled for use in the evaluation measures. Sponsors are not required to use this technical tool. It is optional. Project sponsors may choose instead to continue to use their local travel forecasting model.

FTA is currently testing STOPS with the assistance of several project sponsors currently in the program. Others may contact FTA for assistance in obtaining and using STOPS if they wish. FTA does not believe technical tools such as STOPS, whose use is not required but rather optional, are subject to formal public comment procedures. Nonetheless, we are gathering feedback from the sponsors currently using the tool and will continue to refine the tool over time based on feedback received.

Existing Land Use

Comments

Most of the comments stated the population and employment breakpoints are too high. They indicated the breakpoints favor large cities and create a disadvantage for medium-sized and smaller cities. Additionally, many comments requested clarification as the proposed breakpoints seemed to be missing some key footnotes that had been in past FTA guidance, particularly with regard to total employment and how projects that are extensions of an existing line are treated. Some comments suggested establishing separate breakpoints for New and Small Starts projects.

Most comments received were in favor of considering affordable housing in the New and Small Starts evaluation process. However, many of these comments expressed concern about the potential burden associated with gathering affordable housing data for the entire region. They suggested that FTA examine simply the amount of legally binding affordability restricted housing in the corridor or that FTA compare the share in the corridor to a national benchmark rather than asking sponsors to try to gather the share of legally binding affordability restricted housing in the entire region. Additionally, many comments requested that FTA define with more clarity “legally binding affordability restricted housing.” These suggested that FTA define the income levels targeted as 60% of average median income to be consistent with the federally-assisted Low Income Housing Tax Credit. Many commenters suggested that the proposed definition was too narrow and that FTA should allow project sponsors to include in the measure developer agreements and other similar mechanisms used to support the construction of affordable housing. Some commenters proposed alternative measures, which included capturing market-based housing that is affordable to low income populations, removing the measure’s comparison to affordable housing in the region and instead measuring only affordable housing in the project area, using the total number (instead of the share) of affordability restricted units within ½ mile of proposed stations, and comparing the level of affordable housing within both the proposed transit corridor and the existing transit system as a whole to the level in the surrounding counties.

Response

FTA does not agree that separate land use breakpoints are appropriate for New and Small Starts projects. For any transit project to be successful, regardless of project size or scope, sufficient densities of people and common trip making patterns are required. FTA reminds the industry that the overall rating process is a multiple measure approach. While projects may not fare well on one measure, they may fare better on others. Thus, projects can still receive an overall rating sufficient for advancing through the process and receiving FTA funds.

The land use breakpoints described in the proposed policy guidance were the same breakpoints as have been used by FTA for more than ten years in the evaluation process. However, based on the comments submitted, FTA felt another look at the breakpoints was appropriate. FTA performed research and found a document published by the Institute for Transportation Engineers (ITE) entitled “A Toolbox for Alleviating Congestion,” which includes information on various densities required to support high level transit service. FTA used the findings of that study to establish new population and employment breakpoints. We believe the revised breakpoints are fair and accurate based on values defined through research. We hope this alleviates some of the concerns expressed in the comments.

In the final policy guidance, FTA has revised the affordable housing measure included in the land use criterion based on the comments received. FTA has clarified the definition of “affordable”, addressed the concerns regarding the burden of the data collection effort by using easily obtained county data rather than regional data, and revised the breakpoints.

FTA recognizes that there may be other measures that capture the benefits a proposed project would bring to low-income families. Therefore, the final guidance permits project sponsors to

provide supplemental information on the benefits of the project to low-income families. FTA will rate a proposed project higher than the metric FTA prescribed would otherwise warrant if the project sponsor can demonstrate that the proposed project would provide meaningful benefits to a significant number of low-income persons or families.

Environmental Benefits

Comments

Several comments did not agree with the proposal to give higher monetary value to emissions reductions in non-attainment areas. They stated it is unfair to communities that have worked hard to stay in attainment.

A few comments stated the safety factors proposed by FTA do not seem to reflect the large differences in safety between transit and automobiles. These comments suggested that FTA use data from the National Safety Council (NSC) rather than data from the National Highway Traffic Safety Administration (NHTSA) and the FTA National Transit Database (NTD).

Many comments requested clarification on how Vehicle Miles Traveled (VMT) will be calculated for input into the environmental benefits measures, particularly if a project sponsor chooses to use the simplified model FTA will make available.

Response

FTA believes it is appropriate to give a higher monetary value to emissions reductions in non-attainment areas. The Clean Air Act, in 42 USC § 7409(b), requires the Environmental Protection Agency to set the primary National Ambient Air Quality Standards (NAAQS) at levels “requisite to protect public health.” Areas not attaining the NAAQS (non-attainment areas), and to a lesser extent areas formerly not attaining the NAAQS (maintenance areas) present the best potential for improving public health by implementing transit projects designed to reduce congestion and single occupant vehicle travel. For that reason, FTA has decided it is reasonable to use a slightly higher monetary value for the reduction of air pollution in nonattainment and maintenance areas.

FTA believes it is more appropriate to use data collected from Federal sources when available to calculate measures. Since safety data is collected by the National Highway and Traffic Safety Administration (NHTSA) and FTA, we believe those are the best sources to use for the safety measure under the environmental benefits criterion. The NSC is a nonprofit organization that provides safety resources across all industries, including transportation. It provides little detail on transit injuries or fatalities. Furthermore, the NSC does not appear to collect accident data itself, but rather to analyze data from other collection sources.

FTA has clarified in the final policy guidance how changes in VMT would be calculated.

Mobility

Comments

Most of the comments received stated the proposed mobility breakpoints were too high. These comments stated the breakpoints favored large cities and would be extremely challenging for medium and smaller sized cities. Most suggested that FTA establish separate breakpoints for New and Small Starts projects, believing the breakpoints should recognize the differences in size and scale of the projects. Some comments even suggested that FTA establish three sets of mobility breakpoints by differentiating mega projects from lower cost New Starts projects and Small Starts projects. Several comments requested that FTA publish the data it used to establish the breakpoints.

With regard to the proposed extra weight for transit dependent trips in the mobility measure, several comments suggested that those trips be reported separately rather than being double weighted and merged with trips by non-transit dependent persons to arrive at a total figure. A few comments suggested that FTA alter the definition of transit dependent persons since the income categories used in local travel forecasting models can vary. Some comments suggested using income exclusively as the basis for the measure and some suggested using auto ownership exclusively as the basis for the measure. A few comments suggested that instead of examining trips by transit dependent persons, FTA use transit dependent households in the corridor instead. A few comments requested clarity on the trips to be included in the mobility measure, specifically for projects that are an extension of an existing line.

Response

FTA does not believe it is appropriate to establish separate breakpoints for the mobility criterion for New and Small Starts projects. In this criterion we are attempting to capture the total number of people served by the project to indicate how mobility is improved, particularly for those who are transit dependent. When attempting to differentiate among projects, it is appropriate in this criterion to look at total trips and not compare the outcome based on project cost or scope. The cost effectiveness measure is where we scale the mobility benefits against the project cost or federal share depending on whether it is a New or Small Starts project. FTA reminds the industry that the overall rating process is a multiple measure approach. While projects may not fare well on one measure, they may fare better on others. Thus, projects can still receive an overall rating sufficient for advancing through the process and receiving FTA funds.

Based on the comments received, FTA re-examined the mobility breakpoints and altered them in the final policy guidance. We developed the proposed breakpoints published in January 2013 by gathering data from current and past projects in the program and sorting them in rank order. Natural breakpoints became apparent based on a general bell shaped curve – a few projects on both the high and low end, with most falling in the middle. However, we realized that we had considered in that earlier analysis only horizon year forecasts and not current year forecasts. Additionally, we recognized that streetcar projects were under-represented in our analysis because not many had been funded through the New and Small Starts program. Thus, FTA ran the analysis again using opening year data as well as horizon year data and including data from several recent streetcar projects to ensure all types of projects were represented in our analysis. The revised data was again sorted and natural breakpoints became apparent. The revised breakpoints are lower than those originally proposed. We believe this addresses some of the concerns mentioned.

Most of the commenters mentioned they had performed an analysis of their project against the proposed mobility breakpoints but that their analysis did not take into account the extra weight given for trips made by transit dependent persons. Doing an analysis without the extra weighting for transit dependent trips and trying to compare to FTA's proposed breakpoints was not an apples to apples comparison. The revised breakpoints published in the final policy guidance today take into account not only the weighting of current year with horizon year data, but the extra weight given to trips made by transit dependent persons. FTA believes the final breakpoints to be a fair representation of likely outcomes on this measure from a variety of projects located in different settings around the country and for different modes. The breakpoints can be revised in the future as additional data is gathered on the measure.

FTA will not share the data used to establish the breakpoints. The data is based on available information from a variety of projects that have reported to FTA over several years. We do not believe it is fair to those project sponsors to publish data on their projects that was not used in the evaluation of those projects. It could be misconstrued by the public and others as an indicator of the projects' success, when in reality some of the projects included in the analysis have already been funded and are not subject to this new rating approach.

The term "transit dependent persons" is defined in the appendix to the final rule and cannot be changed. Additionally, the mobility measure is defined in the appendix to the final rule as trips on the project with extra weight for trips made by transit dependent persons, so it cannot be changed.

FTA agrees with the comments received that income categories in travel forecasting models around the country are not consistent. Thus, FTA is using auto ownership as the measure of transit dependent persons in the simplified national model FTA has developed. However, FTA believes project sponsors should be given the choice to use their local travel model if they wish. Since regions use their local travel model for many purposes besides gathering data for the New and Small Starts process, FTA does not feel it should require an adjustment to the demographic definitions used in those local models.

Cost Effectiveness

Comments

A few comments suggested using annualized Federal share in the cost-effectiveness measure for New Starts rather than total annualized capital and operating cost. Some comments suggested clarification on what is included in the annualized Federal share used in the cost-effectiveness measure for Small Starts projects. Specifically the comments asked whether Federal funds used for operating and maintenance were included. Lastly, several comments asked for clarification on how to calculate operating and maintenance costs.

Several comments requested that FTA not adopt a list of finite "enrichments" but rather that FTA allow consideration of enrichments on a case by case basis instead. A few comments made specific suggestions on additional enrichments to add to the list including: capacity expansion elements; incremental cost of structured parking; electrification; and green guideways such as plantings and vegetation.

Response

The final policy guidance clarifies the calculation of the cost-effectiveness measure for Small Starts projects. The annualized Federal share for Small Starts projects is based on Federal capital funds only and not Federal funds used for operations and maintenance. The appendix to the final rule specifies that the measure for New Starts project will be based on total annualized capital and operating costs, so it has not been changed.

FTA is publishing in the final policy guidance a finite list of enrichments that match those in the proposed guidance, with no additions at this time. The list can be revisited in the future as new information may become available. FTA believes the industry would not feel the process was transparent if FTA considered everything on a case by case basis instead of establishing standard procedures. Additionally, we believe having a finite list reduces protracted discussions back and forth between a project sponsor and FTA on what is allowable and what is not.

Economic Development

Comments

A few comments suggested the optional analysis under the economic development criterion be made a requirement of all project sponsors. Others expressed concern about basing the optional analysis on changes in VMT. These suggested that the optional analysis be based on job accessibility measured by number of jobs and households within ½ mile of station areas and within 30 minutes of travel time.

With regard to the review of plans and policies under the economic development criterion, several comments suggested that the analysis also consider local and private sector commitment to economic development including developer agreements, local funding incentives for development, value capture, and private support for the project and supporting facilities. One commenter stated that FTA should not consider in the evaluation process plans and policies that a transit agency can only support but not mandate. Other comments provided detailed suggestions for the affordable housing plans and policies review.

Response

As stated in FTA's response to comments received on the NPRM, FTA has been researching for some time methodologies for estimating economic development benefits resulting from implementation of transit projects. No clear, consistent methodology has been suggested that could be implemented nationwide using readily available and verifiable data. Thus, we are making the analysis optional rather than required. FTA will continue to research better ways to measure economic development and perhaps propose a specific methodology in future policy guidance.

FTA notes that local incentives for development are considered in the review of plans and policies under the economic development criterion. Although transit agencies do not have direct control over setting local plans and policies, FTA believes it is important to consider these factors when determining whether to make a significant infrastructure investment in a corridor since they can impact the success of the project. FTA believes value capture and other potential

private financial participation are more appropriately considered under the local financial commitment evaluation than the economic development criterion. FTA appreciates the detailed suggestions provided on the affordable housing plans and policies review. The final policy guidance incorporates many of the suggestions.

Local Financial Commitment

Comments

Several comments requested clarification in the financial ratings matrix included with the proposed policy guidance. Some asked for details on the exact weights to be used when considering multiple items under a single subfactor. Some asked for clarification on whether the thresholds for various subfactor ratings become more stringent as a project progresses through the steps in the process. Several requested more specificity on how private sector contributions would be considered. A few comments also made specific suggestions for changing the matrix such as: 1) changing “no service cutbacks” under the current condition factor by eliminating it altogether or indicating minor service cutbacks to improve efficiency are acceptable; 2) including mean distance between failures under the current condition factor rather than relying on fleet age and bond ratings; and 3) offering credit for projects that reduce operating expenses.

Response

FTA has made several revisions in the final policy guidance to address the comments received. Of the specific suggestions made, the only one not implemented is to include an examination of mean distance between failures under the current condition factor for the reasons already stated in our response to this same comment on the NPRM.